



PIVOTAL SOFTWARE **END USER LICENSE AGREEMENT**

IMPORTANT - READ CAREFULLY: This Software contains computer programs and other proprietary material and information, the use of which is subject to and expressly conditioned upon acceptance of this End User License Agreement (“EULA”). This EULA shall apply to Pivotal HD and Pivotal Advanced Database Services, including the Major Releases and Minor Releases to such Software.

This EULA is a legally binding document between you (meaning the person or the entity that obtained the Software under the terms and conditions of this EULA, is agreeing to be bound by the terms and conditions of this EULA, and is referred to below as “You” or “Customer”) and Pivotal (meaning (i) Pivotal Software, Inc., if Customer is located in the United States; and (ii) the local Pivotal sales subsidiary, if Customer is located in a country outside the United States in which Pivotal has a local sales subsidiary; and (iii) GoPivotal International Limited, if Customer is located in a country outside the United States in which Pivotal does not have a local sales subsidiary (in each case, referred to herein as “Pivotal”). Unless Customer has entered into a written and separately signed agreement with Pivotal that is currently in effect with respect to the license of the Software and provision of Support Services and Software Subscription, this EULA governs Customer's use of the Software and the provision of Support Services and Software Subscription. Capitalized terms have the meaning stated in the EULA.

If Customer does not have a currently enforceable, written and separately signed Software license agreement directly with Pivotal or the Distributor from whom Customer obtained this Software, then by clicking on the “Agree” or “Accept” or similar button in this EULA, or proceeding with the installation, downloading, use or reproduction of this Software, or authorizing any other person to do so, You are representing to Pivotal that You are (i) authorized to bind the Customer; and (ii) agreeing on behalf of the Customer that the terms of this EULA shall govern the relationship of the parties with regard to the subject matter in this EULA, and waiving any rights, to the maximum extent permitted by applicable law, to any claim anywhere in the world concerning the enforceability or validity of this EULA.

If You do not have authority to agree to the terms of this EULA on behalf of the Customer, or do not accept the terms of this EULA on behalf of the Customer, click on the “Cancel” or “Decline” or other similar button and/or immediately cease any further attempt to install, download or use this Software for any purpose, and remove any partial or full copies made from this Software.

1. DEFINITIONS

1.1. “Affiliate” means a legal entity that is controlled by, controls, or is under common “control” of Pivotal or You. “Control” means more than 50% of the voting power or ownership interests.

1.2. “Beta Component” means a component of the Software provided herein which is not yet generally available but is included in the Software.

1.3. “Confidential Information” means the terms of this EULA, Software, and all confidential and proprietary information of Pivotal or Customer, including without limitation, all business plans, product plans, financial information, software, designs, and technical, business and financial data of any nature whatsoever, provided that such information is marked or designated in writing as “confidential,” “proprietary,” or with any other similar term or designation. Confidential Information does not include information that: (a) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (b) becomes

publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (c) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (d) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (e) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession and prepared contemporaneously with such independent development; (f) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure; or (g) is software code in either object code or source code form that is licensed under an Open Source Software license.

1.4. "Distributor" means a reseller, distributor, system integrator, service provider, independent software vendor, value-added reseller, OEM, or other partner that is authorized by Pivotal to license Software to end users. The term shall also refer to any third party duly authorized by a Distributor to license Software to end users.

1.5. "Documentation" means, collectively, the operating instructions, release notes, media, printed materials, user manuals and/or help files for the Software in electronic or written form.

1.6. "Evaluation Software" means Software made available by Pivotal directly to You for a limited period of time at no charge to enable You to evaluate such Software prior to making a final decision on licensing or purchasing such from Pivotal.

1.7. "License Key" or "Compliance Key" means a serial number that enables You to activate and use the Software, as applicable.

1.8. "Major Release," means a generally available release of the Software that: (a) contains functional enhancements and extensions; (b) fixes for high severity and high priority bugs; and (c) is designated by Pivotal by means of a change in the digit to the left of the first decimal point (e.g., Software 5.0 >> Software 6.0).

1.9. "Technology" means Open Source Software, software, hardware, technology or other materials.

1.10. "Minor Release" means a generally available release of the Software that: (a) introduces a limited amount of new features, functionality and minor enhancements; (b) fixes for high severity and high priority bugs identified in the current release; and (c) is designated by Pivotal by means of a change in the digit to the right of the decimal point (e.g., Software 5.0>>Software 5.1).

1.11. "Open Source Software" or "OSS" means software components that are licensed under a license approved by the Open Source Initiative or similar open source or freeware license and which are included in, embedded in, utilized by, provided or distributed with the Software.

1.12. "Pivotal Product Guide" means the notice by which Pivotal informs Customer of product-specific usage rights and restrictions. The Pivotal Product Guide may be delivered in writing attached to the applicable Distributor quote, or otherwise in writing and/or a posting on the applicable Pivotal website, currently located at <http://www.pivotal.io/product-guide>. The terms of the Pivotal Product Guide in effect as of the date of the quote shall be deemed incorporated into and made a part of this EULA. Each Pivotal Product Guide is dated and is archived when it is superseded by a newer version. Pivotal shall not change any Pivotal Product Guide retroactively with regard to any products listed on an applicable quote issued prior to the date of the applicable Pivotal Product Guide. At Customer's request, Pivotal shall without undue delay provide Customer with a copy of the applicable Pivotal Product Guide.

1.13. "Software" means the Pivotal computer programs (listed on Pivotal's commercial price list) for which you obtain a license under an order or quote (which specifies a perpetual, Software Subscription time-bound or license Term), together with any Software Release that is provided to You during the Term.

1.14. “Software Release” means any Major Release and Minor Release provided by Pivotal after initial delivery of the Software, but does not include new Software products or services (as determined by Pivotal).

1.15. “Software Subscription” means access to the Software and Documentation subject to the licensing terms and restrictions set forth in the Pivotal Product Guide, and Support Services, which include any new Software and upgrades introduced with respect to the Software Subscription set forth in the quote on a “when and if available” basis during the Subscription Period.

1.16. “Subscription Period” means the period of time commencing on the date that Pivotal either: (a) ships the physical media to Customer; or (b) sends a notification that the Software is available for electronic download, and continues for the period specified as such on the quote.

1.17. “Support Services” means the services available from Pivotal or its designee that provides Software Releases and support services for Software as set forth at <http://www.pivotal.io/support>, as such schedule may be updated by Pivotal from time to time.

1.18. “Term” means the period of time during which You are licensed to use the Software (and/or the Software Subscription), as set forth in the quote, or order, and the Software will be available for Your use and/or access only for the duration of such Term.

3. GRANT AND USE RIGHTS FOR SOFTWARE

3.1 License Grant. The Software is licensed, not sold. Pivotal grants You a non-exclusive, non-transferable license, without rights to sublicense, to use the Software in the country where You are invoiced in accordance with the Documentation and the Pivotal license model set forth in the applicable Pivotal Product Guide, for which You have paid the applicable license fees. Notwithstanding any term to the contrary herein, or contained in the Pivotal Product Guide, You may use the Software directly or via third party tools, solely for use with the data generated from the particular software that You have licensed from RSA, as set forth in the applicable Documentation. Software must be installed on equipment located in the country where You are invoiced. You may allow third party consultants or contractors to access and use the Software on Your behalf solely for Your internal business operations, provided that they are bound by an agreement with You protecting Pivotal’s intellectual property with terms no less stringent than this EULA and You ensure that such third party use of the Software complies with the terms of this EULA. You may make one backup, unmodified copy of the Software solely for archival purposes. If You upgrade or exchange the Software from a previous validly licensed version, You must cease use of the prior version of that Software. You agree to provide written certification of destruction of the previous version of the Software upon Pivotal’s request.

3.2 Subscription Provisions. Pivotal grants You a non-exclusive, non-transferable license to use the Software up to the maximum licensed capacity during the Subscription Period as set forth in the quote. Should You exceed the licensed capacity during the Subscription Period, You will promptly procure license rights for additional capacity at a mutually-agreed price. At least sixty (60) days prior to the expiration of Your Subscription Period, Pivotal will send you a notification giving you the option to renew for one (1) additional year at the same annual rate as set forth herein. Following the expiration of the Subscription Period, the Subscription shall automatically renew for one (1) additional year at the same annual rate as set forth herein if You do not notify Pivotal at least thirty (30) days prior to the expiration of the Subscription Period of Your intent not to renew the Software Subscription for one (1) additional year. Upon such notification, You agree to cease using the Pivotal Software at the end of the Subscription Period and will certify same to Pivotal.

3.3 Open Source Software. Notwithstanding anything herein to the contrary, Open Source Software is licensed to You under such OSS’s own applicable license terms, which can be found in the `open_source_licenses.txt` file included in the Software, or as applicable, the corresponding source files for the Software available at <http://www.pivotal.io/open-source>. Customer may also obtain a copy of the applicable licenses and source files

by sending a written request, with Your name and address to: Pivotal Software, Inc., 3495 Deer Creek Road, Palo Alto, CA 94903. All such requests should clearly specify: Open Source Files Request, Attention: General Counsel. This offer to obtain a copy of the applicable licenses and source files is valid for three years from the date you first acquired access to the Software. Customer is responsible for complying with any third party terms and conditions applicable to such Open Source Software. These OSS license terms may contain additional rights benefiting You. The OSS license terms shall take precedence over this EULA to the extent that this EULA imposes greater restrictions on You than the applicable OSS license terms, solely with respect to such OSS.

3.4 Licensing Models. Software is licensed for use only in accordance with the commercial terms and restrictions of the Software's relevant licensing model, which are stated in the Pivotal Product Guide found <http://www.pivotal.io/product-guide> and/or attached to the quote from Pivotal or Distributor.

3.5 Restrictions. Without Pivotal's prior written consent, Customer must not, and must not allow any third party, to: (i) use Software in an application services provider, service bureau, or similar capacity for third parties; (ii) disclose to any third party the results of any benchmarking testing or comparative or competitive analyses of Software done by or on behalf of Customer except as otherwise permitted herein; (iii) make available Software in any form to anyone other than Customer's employees or contractors reasonably acceptable to Pivotal and which require access to use Software on behalf of Customer in a matter permitted by this EULA; (iv) transfer or sublicense Software or Documentation to an Affiliate or any third party (notwithstanding the foregoing restriction, You may use the Software to deliver hosted services to Your Affiliates as defined herein); (v) use Software in conflict with the terms and restrictions of the Software's licensing model and other requirements specified in the Pivotal Product Guide and/or Pivotal quote; (vi) except to the extent permitted by applicable mandatory law or third party license, modify, translate, enhance, or create derivative works from the Software, or reverse assemble or disassemble, reverse engineer, decompile, or otherwise attempt to derive source code from the Software; (vii) remove any copyright or other proprietary notices on or in any copies of Software; or (viii) violate or circumvent any technological restrictions within the Software or specified in this EULA, such as via software or services.

3.6 Decompilation. Notwithstanding the foregoing, decompiling the Software is permitted to the extent the laws of the country in which You are using the Software give You the express right to do so to obtain information necessary to render the Software interoperable with other software; provided that You must first request such information from Pivotal (at legal@pivotal.io), provide all reasonably requested information to allow Pivotal to assess Your claim, and Pivotal may, in its discretion, either provide such interoperability information to You, impose reasonable conditions, including a reasonable fee, on such use of the Software, or offer to provide alternatives to ensure that Pivotal's proprietary rights in the Software are protected and to reduce any adverse impact on Pivotal's proprietary rights.

3.7 Benchmarking. You may use the Software to conduct internal performance testing and benchmarking studies. You may only publish or otherwise distribute the results of such studies to third parties as follows: only if You provide a copy of Your study to benchmark@pivotal.io for approval prior to such publication and distribution.

3.8 Customer Responsibilities. You are responsible for separately obtaining any software, hardware or other technology required to operate the Software and complying with any corresponding terms and conditions. You are solely responsible for all obligations to comply with laws applicable to Your use of the Software including without limitation any processing of personal data.

3.9 Data Collection and Usage. You agree that Pivotal may collect, use, store and transmit technical and related information Your use of the Software including but not limited to server internet protocol address, hardware identification, operating system, application software, peripheral hardware, and Software usage statistics, to facilitate the provisioning of updates, support, invoicing, online services to You. You are responsible for obtaining any consents required in order to enable Pivotal to exercise the rights set forth in this Section 3.9, in each case in compliance with applicable law.

3.10 Audit Rights. During the Term and for two (2) years after termination or expiration of the EULA or Support Services and/or Software Subscription for the Software, You agree to maintain accurate records as to Your installation and use of the Software sufficient to provide evidence of compliance with the terms of this EULA. Pivotal, or an independent third party designated by Pivotal, may audit, upon written notice to You, Your books, records, and computing devices to determine Your compliance with this EULA and Your payment of the applicable license and Support Services and/or Software Subscription fees, if any, for the Software. Pivotal may conduct no more than one (1) audit in any twelve (12) month period. In the event that any such audit reveals an underpayment by You of more than five percent (5%) of the license amounts due to Pivotal in the period being audited, or that You have breached any term of the EULA, then, in addition to paying to Pivotal any underpayments for Software licenses and Support Services and/or Software Subscription fees and any other remedies Pivotal may have, You will promptly pay to Pivotal the audit costs incurred by Pivotal. Customer grants Pivotal the right to use license management technology included in its Software in furtherance of the audit rights set forth herein.

3.11 Reserved Rights. Pivotal retains all right, title, and interest in and to the Software, and all related intellectual property rights. Pivotal retains all rights not expressly granted to You in this EULA.

4. TITLE, DELIVERY, ACCEPTANCE, PAYMENT AND PURCHASE.

4.1 Title, Delivery and Acceptance. Software shall be provided by electronic download and will be deemed to be delivered and accepted, meaning that Software operates in substantial conformity to the Documentation upon transmission of a notice of availability for download (accompanied by the license key when required by Pivotal or its Distributor).

4.2 Purchasing. Each Customer purchase order shall reference the applicable Pivotal quote and becomes binding on both parties when it is submitted to Customer and accepted by Pivotal (i) issuing an e-mail or other communication to Customer; or (ii) delivering the Software identified in the purchase order to Customer.

4.3 Payment. Customer shall pay Pivotal's invoices in full within thirty (30) days after the date of Pivotal's invoice. In addition to the charges due hereunder, Customer shall pay or reimburse to Pivotal for all valued added (VAT), sales, use, excise, withholding, personal property and other taxes resulting from a Customer purchase order, except for taxes based on Pivotal's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to Pivotal at legal@pivotal.io.

5. SUPPORT SERVICES AND SOFTWARE SUBSCRIPTION. In the event you have purchased Pivotal Support or Software Subscription you will be entitled to any updates, upgrades or extensions or enhancements to the Software. These Support or Software Subscription are subject to Pivotal's then-current terms and conditions for such Support or Software Subscription as further described at <http://www.pivotal.io/support>. Software Subscription includes Support Services and enables You to obtain unspecified upgrades and major releases of the Software product purchased under such Software Subscription during the Subscription Period.

6. SOFTWARE RELEASES.

Customer shall use and deploy Software Releases strictly in accordance with terms of the original license for the Software.

7. **TERMINATION.** Pivotal may terminate this EULA in its entirety effective immediately upon written notice to You if: (a) You breach any provision in Section 3.4 and do not cure the breach within ten (10) days after receiving written notice thereof from Pivotal; (b) You fail to pay any portion of the fees under an applicable order within ten (10) days after receiving written notice from Pivotal that payment is past due; (c) You suffer an insolvency or analogous event; (d) You breach any other provision of this EULA and do not cure the breach within thirty (30) days after receiving written notice thereof from Pivotal; or (e) You commit a material breach of this EULA that is not capable of being cured. In the event of expiration or any termination of this EULA, You

must remove and destroy all copies of the Software, including all backup copies, from the server, virtual machine, and all computers and terminals on which the Software is installed or used and certify destruction of applicable Software (including copies). Any obligations to pay fees incurred prior to termination and Sections 1, 2.3, 3.5, 3.9, 3.10, 4, 7, 9, 10, 11, 12 and 13 of this EULA shall survive expiration or termination of this EULA for any reason.

8. IP INDEMNITY. Subject to Section 9.3 herein, Pivotal shall (i) at its own expense, defend Customer against any third party claim that the Software as provided by Pivotal to Customer infringes a copyright or patent enforceable in a country that is a signatory to the Berne Convention; and (ii) pay the resulting costs and damages finally awarded against Customer by a court of competent jurisdiction, or pay the amounts stated in a written settlement negotiated and approved by Pivotal. The foregoing obligations are subject to the following: Customer (a) notifies Pivotal promptly in writing of such claim; (b) grants Pivotal sole control over the defense and settlement thereof; (c) reasonably cooperates in response to Pivotal's request for assistance; and (d) is not in material breach of this EULA. Should the Software become, or in Pivotal's opinion be likely to become, the subject of such a claim, Pivotal may, at its option and expense, (1) procure for Customer the right to make continued use thereof; (2) replace or modify such so that it becomes non-infringing; or (3) request return of the Software and, upon receipt thereof, refund the price paid by Customer, less straight-line depreciation based on a three (3) year useful life for Software. Notwithstanding anything to the contrary stated herein, neither Pivotal nor any Pivotal Distributor(s) shall have any liability to Customer to the extent that the alleged infringement arises out of or relates to: (A) combination, operation or use of the Software with any other software, hardware, technology, data, or other materials, if the infringement would not have arisen but for such combination, operation or use; (B) use for a purpose or in a manner for which the Software was not designed; (C) any modifications to the Software made by any person other than Pivotal or its authorized representatives; (D) any modifications to the Software made by Pivotal pursuant to Customer's specific instructions; (E) use of any older version of the Software when use of a newer Software Release made available to Customer would have avoided the infringement; (F)(i) Technology not developed by Pivotal, (ii) combination, operation or use thereof, and/or (iii) combination, operation or use of Pivotal-developed Technology with Technology not developed by Pivotal. THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND PIVOTAL'S ENTIRE LIABILITY WITH RESPECT TO ALLEGED INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ANY OR ALL OF THE SOFTWARE OR ITS OPERATION OR USE.

9. LIMITED WARRANTY AND LIMITATION OF LIABILITY

9.1 Software Warranty, Duration and Remedy. Pivotal warrants to Customer that the Software will, for a period of ninety (90) days following Delivery or notice of availability for electronic download ("Warranty Period"), substantially conform to the applicable Documentation, provided that the Software: (i) has been properly installed and used at all times in accordance with the applicable Documentation; and (ii) has not been modified or added to by persons other than Pivotal or its authorized representative. Pivotal will, at its own expense and as its sole obligation and Customer's exclusive remedy for any breach of this warranty, either replace that Software or correct any reproducible error in that Software reported to Pivotal by Customer in writing during the Warranty Period. If Pivotal determines that it is unable to correct the error or replace the Software, Pivotal will refund to Customer the amount paid by Customer for that Software, in which case the license for that Software will terminate.

9.2 WARRANTY EXCLUSIONS. EXCEPT AS SET FORTH IN SECTION 9.1, PIVOTAL AND ITS LICENSORS PROVIDE THE SOFTWARE WITHOUT ANY WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS EULA OR COMMUNICATION WITH YOU, AND PIVOTAL AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SOFTWARE, THE DOCUMENTATION, OR ANY MATERIALS FURNISHED OR PROVIDED TO YOU UNDER THIS EULA. PIVOTAL AND ITS LICENSORS DO NOT WARRANT THAT THE SOFTWARE WILL OPERATE

UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT THE SOFTWARE WILL MEET (OR IS DESIGNED TO MEET) YOUR BUSINESS REQUIREMENTS.

9.3 LIMITATION OF LIABILITY. IN NO EVENT WILL PIVOTAL BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND ARISING UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE. PIVOTAL'S AND ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS EULA OR THE PROVISION OR USE OF ANY AND ALL OF THE SOFTWARE AND SERVICES PROVIDED HEREUNDER, WILL NOT, IN ANY EVENT, EXCEED THE LESSER OF (I) FEES YOU PAID FOR THE SOFTWARE DURING THE 12 MONTHS PRECEDING THE DATE PIVOTAL RECEIVES WRITTEN NOTICE OF THE FIRST CAUSE OF ACTION TO ARISE HEREUNDER; OR (II) USD\$1,000,000. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER PIVOTAL OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

9.4 Limitation Period. All claims must be made within (i) the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if no such period is specified at law.

9.5 Regular Back-ups. As part of its obligation to mitigate damages, Customer shall take reasonable data backup measures. In particular, Customer shall backup data before Pivotal performs any remedial works, upgrades, uploads or installs any new Software Release or otherwise works on Customer's production systems. To the extent Pivotal's liability for loss of data is not anyway excluded under this EULA, Pivotal shall in case of data losses only be liable for the typical effort to recover the data which would have accrued if Customer had appropriately backed up its data.

10. CONFIDENTIALITY. Each party shall (i) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this EULA; and (ii) use at least reasonable care to protect from disclosure to any third parties any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to Customer data stored within the Software to which Pivotal may have access in connection with the provision of Support or Software Subscription, which shall remain Confidential Information until or unless one of the exceptions stated in the above definition of Confidential Information applies. Notwithstanding the foregoing, either party may disclose Confidential Information (a) to independent contractors performing services on its behalf and Affiliates for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliates and independent contractors performing services on its behalf comply with the foregoing; and (b) if required by law provided the receiving party has given the disclosing party prompt notice. Pivotal will not be responsible for unauthorized disclosure of Customer data stored within the Software arising from a data security breach.

11. SOFTWARE-SPECIFIC TERMS AND CONDITIONS. In addition to the above sections, the Software is subject to the specific license use rights and terms and conditions located at <http://www.pivotal.io/product-guide>. In the event of any conflict between the Software-specific terms and conditions set forth in the Pivotal Product Guide and those set forth in this EULA, the Software-specific terms and conditions set forth in the Pivotal Product Guide shall control.

12. GENERAL

12.1 Construction. As used in this EULA: (a) the terms "include" and "including" are meant to be inclusive and shall be deemed to mean "include without limitation" or "including without limitation," (b) the word "or" is disjunctive, but not necessarily exclusive, (c) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa, (d) references to "dollars" or "\$" shall be to United States dollars unless otherwise specified herein, (e) unless otherwise specified, all references to days, months or years

shall be deemed to be preceded by the word "calendar." The headings of this EULA are intended solely for convenience of reference and shall be given no effect in the interpretation or construction of this EULA.

12.2 Governing Law. This EULA is governed by: (i) the laws of California when Pivotal means Pivotal Software, Inc.; (ii) the laws of the country in which the applicable Pivotal subsidiary is registered to do business when Pivotal means the local Pivotal subsidiary; and (iii) the laws of Ireland when Pivotal means GoPivotal International Limited; provided that in each case, the foregoing shall exclude any conflict of law rules, and the U.N. Convention on Contracts for the International Sale of Goods shall not apply.

12.3 Notices. Any notice, consent or other communication to be given under this EULA by any party shall be in writing and shall be either (a) personally delivered, (b) mailed by registered or certified mail, postage prepaid with return receipt requested, (c) delivered by prepaid overnight express delivery service or same-day local courier service, or (d) via e-mail transmission, with receipt confirmed or a confirming copy sent via mail. Notices delivered personally, by overnight express delivery service, by local courier service, facsimile transmission or email shall be deemed given as of actual receipt. Mailed notices shall be deemed given seven (7) Business Days after mailing.

12.4 Successors and Assigns. This EULA may not be assigned without the express written consent of the other party, not to be unreasonably withheld, conditioned or delayed, except that Pivotal may assign or transfer this EULA, in whole or in part, without consent of Customer to any successors-in-interest to all or substantially all of the business or assets of Pivotal whether by merger, reorganization, asset sale or otherwise, or to any Affiliates of Pivotal. Any purported transfer or assignment in violation of this section is void. Subject to the foregoing restrictions, the terms and conditions of this EULA shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties.

12.5 Severability. If any provision of this EULA becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable, or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this EULA, and such court will replace such illegal, void or unenforceable provision of this EULA with a valid and enforceable provision that will achieve, to the extent possible, the same economic, business and other purposes of the illegal, void or unenforceable provision. The balance of this EULA shall be enforceable in accordance with its terms.

12.6 Waiver. Failure to enforce a provision of this EULA will not constitute a waiver.

12.7 Independent Contractor. The parties are independent contractors. Nothing in this EULA shall be construed to create a joint venture, partnership, or an agency relationship between the parties themselves or between the parties and any third person. Except as expressly provided herein, no party has the authority, without the other party's prior written approval, to bind or commit any other party in any way.

12.8 No Third-party Beneficiaries. This EULA is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

12.9 Force Majeure. In the event that either party is prevented from performing or is unable to perform any of its obligations under this EULA due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of production facilities, riot, insurrection, material unavailability, unavailability or interruption of telecommunications equipment or networks, or any other cause beyond the reasonable control of the party invoking this section, and if such party shall have used reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences.

12.10 Compliance with Laws; Export Control; Government Regulations. Each party shall comply with all laws applicable to the actions contemplated by this EULA. You acknowledge that the Software is of United States origin, is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. You

represent that (1) you are not, and are not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) you will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. If the Software and related documentation is licensed to the United States government or any agency thereof, then the Software and documentation will be deemed to be “commercial computer software” and “commercial computer software documentation,” respectively, pursuant to DFARS Section 227.7202 and FAR Section 12.212, as applicable. Any use, reproduction, release, performance, display or disclosure of the Software and any related documentation by the U.S. Government will be governed solely by this EULA and is prohibited except to the extent expressly permitted by this EULA.

12.11 Order of Precedence. In the event of conflict or inconsistency among the Pivotal Product Guide, this EULA and a purchase order, the following order of precedence shall apply: (a) the Pivotal Product Guide, (b) this EULA and (c) the order.

12.12 Entire Agreement. This EULA (i) is the complete statement of the agreement of the parties with regard to the subject matter hereof; and (ii) may be modified only by a writing signed by both parties. All terms of any purchase order or similar document provided by Customer, including but not limited to any pre-printed terms thereon and any terms that are inconsistent or conflict with this EULA, shall be null and void and of no legal force or effect.

12.13 Contact Information. Please direct legal notices or other correspondence to Pivotal Software, Inc., 3495 Deer Creek Road, Palo Alto, CA 94304, United States of America, Attn: legal@pivotal.io.

13. COUNTRY SPECIFIC TERMS [IRELAND]. The terms in this Section 13 apply only when Pivotal means the Pivotal sales subsidiary located in Ireland (currently GoPivotal International Limited) and for the avoidance of doubt these terms below shall replace the terms in the EULA above as specifically stated and all other terms shall remain unchanged:

13.1 Section 4.1 (TITLE, DELIVERY AND ACCEPTANCE). The entire section is deleted and replaced with:

4.1 Title, Delivery and Acceptance. Unless otherwise agreed in writing, Software shall be provided by electronic download and will be deemed to be delivered and accepted, meaning that Software operates in substantial conformity to the Documentation upon transmission of a notice of availability for download (accompanied by the license key when required by Pivotal or its Distributor). In the event of delivery of physical media containing the Software, title and risk of loss shall transfer to Customer upon Pivotal’s delivery to a carrier at Pivotal’s designated point of shipment (“Delivery”) and Pivotal shall designate the carrier. Acceptance of physical media shall occur upon Delivery. Notwithstanding such acceptance of the Software, Customer retains all rights and remedies set forth in Section 9.1 of this EULA.

13.2 Section 9.2 (WARRANTY EXCLUSIONS). The entire section is deleted and replaced with:

9.2 WARRANTY EXCLUSIONS. EXCEPT AS EXPRESSLY STATED IN THE APPLICABLE WARRANTY SET FORTH IN THIS EULA, PIVOTAL (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, WRITTEN OR ORAL. INSOFAR AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING WARRANTIES ARISING BY STATUTE, COURSE OF DEALING OR USAGE OF TRADE.

13.3 Section 9.3 (LIMITATION OF LIABILITY). The entire section is deleted and replaced with:

9.3 LIMITATION OF LIABILITY.

A. In case of death or personal injury caused by Pivotal's negligence, in case of Pivotal's willful misconduct, fraud or gross negligence, and where a limitation of liability is not permissible under applicable mandatory law, Pivotal shall be liable according to statutory law.

B. Subject always to subsection 9.3.A, the liability of Pivotal (including its suppliers) to the Customer under or in connection with a Customer's purchase order, whether arising from negligent error or omission, breach of contract, or otherwise ("Defaults") shall not exceed the lesser of (i) fees You paid for the specific service (calculated on an annual basis, when applicable) or Software during the 12 months preceding Pivotal's notice of such claim; or (ii) or one million euros (€1,000,000).

C. In no event shall Pivotal (including its suppliers) be liable to Customer however that liability arises, for the following losses, whether direct, consequential, special, incidental, punitive or indirect: (i) loss of actual or anticipated revenue or profits, loss of use, loss of actual or anticipated savings, loss of or breach of contracts, loss of goodwill or reputation, loss of business opportunity, loss of business, wasted management time, cost of substitute services or facilities, loss of use of any software or data; and/or (ii) indirect, consequential, exemplary or incidental or special loss or damage; and/or (iii) damages, costs and/or expenses due to third party claims; and/or (iv) loss or damage due to the Customer's failure to comply with obligations under this EULA, failure to do back-ups of data or any other matter under the control of the Customer and in each case whether or not any such losses were direct, foreseen, foreseeable, known or otherwise, and whether or not that party was aware of the circumstances in which such losses could arise. For the purposes of this Section 9.3, the term "loss" shall include a partial loss, as well as a complete or total loss.

D. The parties expressly agree that should any limitation or provision contained in this Section 9.3 be held to be invalid under any applicable statute or rule of law, it shall to that extent be deemed omitted, but if any party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out in this Section 9.3.

E. The parties expressly agree that any order for specific performance made in connection with this EULA in respect of Pivotal shall be subject to the financial limitations set out in sub-section 9.3.B.

F. CUSTOMER OBLIGATIONS IN RESPECT OF PRESERVATION OF DATA. During the Term of the EULA the Customer shall:

1) from a point in time prior to the point of failure, (i) make full and/or incremental backups of data which allow recovery in an application consistent form, and (ii) store such back-ups at an off-site location sufficiently distant to avoid being impacted by the event(s) (e.g. including but not limited to flood, fire, power loss, denial of access or air crash) and affect the availability of data at the impacted site;

2) have adequate processes and procedures in place to restore data back to a point in time and prior to point of failure, and in the event of real or perceived data loss, provide the skills/backup and outage windows to restore the data in question;

3) use anti-virus software, regularly install updates across all data which is accessible across the network, and protect all storage arrays against power surges and unplanned power outages with uninterruptible power supplies; and

4) ensure that all operating system, firmware, system utility (e.g. but not limited to, volume management, cluster management and backup) and patch levels are kept to Pivotal recommended versions and that any proposed changes thereto shall be communicated to Pivotal in a timely fashion.

13.4 Section 9.4 (Limitation Period). The entire section is deleted and replaced with:

9.4 WAIVER OF RIGHT TO BRING ACTIONS. Customer waives the right to bring any claim arising out of or in connection with this EULA more than twenty-four (24) months after the date of the cause of action giving rise to such claim.